



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/156539

PRELIMINARY RECITALS

Pursuant to a petition filed March 31, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on April 24, 2014, at Sheboygan, Wisconsin.

The issue for determination is whether the Sheboygan County Department of Human Services (the agency) correctly determined the Petitioner's FoodShare allotment effective April 1, 2014 forward.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Julie Wieck, Economic Support Specialist
Sheboygan County Department of Human Services
3620 Wilgus Ave.
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.

2. On March 10, 2014, the agency sent the Petitioner a notice, indicating that effective April 1, 2014, her FoodShare benefits would be reduced from \$356.00 per month to \$214.00 per month. (Exhibit 5)
3. Petitioner filed a request for fair hearing that was received on March 31, 2014. (Exhibit 1)
4. On April 7, 2014, the agency sent the Petitioner a notice indicating that as of May 1, 2014, her FoodShare benefits would be reduced from \$214.00 per month to \$188.00 per month. (Exhibit 4)
5. Petitioner is over age 60 and therefore, considered elderly for FoodShare purposes. (Exhibit 6)
6. Petitioner's assistance group size is 4 (four) and includes her son, her grandson and her granddaughter. (Exhibit 6, testimony of [REDACTED])
7. The Petitioner receives \$1284.00 per month in Social Security benefits. (Id.)
8. The Petitioner's granddaughter, who is 18, earns \$208 bi-weekly. (Exhibit 7)
9. As of April 1, 2014, the Petitioner paid rent in the amount of \$249 per month and was responsible for utilities. Prior to this, she paid \$254.00 per month. (Exhibit 4, Exhibit 6, Testimony of [REDACTED])
10. The Petitioner has various medical expenses:
 - a. \$20.00 for a hearing aid
 - b. \$1260.79 from MVN Hospital
 - c. \$63.90 from Larson Eye Care
 - d. \$77.18 for CSM
 - e. \$10.27 from Prevea Health
 - f. \$20.64 from Prevea Health

(Testimony of Ms. Wieck; Exhibits 2 and 3)

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits, though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FoodShare household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is then based upon prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This is \$163 per month for a household of four people. *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;

- (4) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5).

The heating standard utility allowance (HSUA) is \$450 per month.

There is a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

The Petitioner filed an appeal after receiving notice that her FoodShare allotment would be reduced effective April 1, 2014.

Looking at the budget printouts in Exhibit 6 and comparing them to the medical bills submitted in Exhibits 2 and 3, I am unable to determine how the agency calculated the Petitioner’s medical expenses. It is not clear how the agency was counting the bills and in what months. Indeed, the agency has submitted no documentation showing me their work / explaining their math. Consequently, I cannot conclude that the agency correctly calculated the Petitioner’s FoodShare benefits effective April 1, 2014 on-ward.

This matter will have to be remanded to the agency for a redetermination of Petitioner’s benefits. If the Petitioner disagrees with the re-determination, the Petitioner may file a NEW request for fair hearing.

The agency should note the following provisions in the FoodShare Wisconsin Manual:

4.6.4.3 Budgeting Medical Expenses including MA Deductible Expenses

Medical expenses for elderly, blind, or disabled members may be entered through one of the following budgeting methods:

- Budgeted as a recurring monthly expense,
- Budgeted as a one-time lump sum expense for one month,
- Budgeted for the remainder of a FS certification period,
- Budgeted based on the terms of a payment plan, or
- Averaged over the time period a one-time medical expense was intended to cover (such as a prepaid or met medical deductible).

Under all of the budgeting options, the obligation amount (amount incurred) is counted rather than the amount paid. The member may or may not pay the bill so it is important to make sure that the expense is not counted more than once.

A monthly medical expense obligation budgeted based on the terms of a payment plan can be claimed for as long as the original payment plan is in place. Amounts still due

after they were budgeted during a previous FS certification period may not be included as part of the monthly expense.

The averaging of the one-time medical expense cannot extend past the certification period in which the expense was originally counted.

Except when an expense is averaged during a certification period, the expense should be budgeted starting with the month it is billed or otherwise becomes due, regardless of when the member intends to pay the expense. Allow the expense in the next possible benefit month.

For instructions on how to enter allowable medical expenses into CWW, see Process Help, Section [18.2.4](#) Other Medical Expenses - Medical Expenses Page.

To make things easier for the Petitioner, the agency and the Petitioner might consider collecting the Petitioner's medical bills over the six month period between the date of renewal and the date of the six-month report form, and averaging them, rather than using the month-to-month approach that the agency indicated it was implementing.

CONCLUSIONS OF LAW

The agency did not correctly calculate the Petitioner's FoodShare allotment effective April 1, 2014, forward.

THEREFORE, it is

ORDERED

That the agency re-determine the Petitioner's medical expenses and re-determine her FoodShare allotment, effective April 1, 2014. The agency shall then issue a new notice of decision to the Petitioner, advising her of the outcome of the re-determination. The agency shall take all administrative steps necessary to complete these tasks within 10-days of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

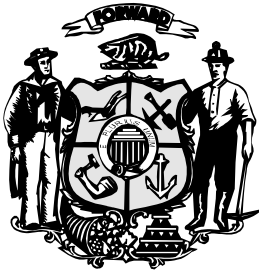
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 7th day of May, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 7, 2014.

Sheboygan County Department of Human Services
Division of Health Care Access and Accountability